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KERALA GAZETTE

EXTRAORDINARY

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NOTIFICATION

No. 341/LA7/59. *Dated, 13th February 1959.*

The following Bill together with the statement of Objects and Reasons is published, as ordered by the Speaker, under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

Legislature Secretariat,
Trivandrum.

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THE KERALA BUILDINGS (LEASE AND RENT CONTROL) BILL, 1959.

A Bill to unify and amend the Law for regulating the leasing of buildings and controlling the rent of buildings in the State of Kerala.

WHEREAS it is expedient to unify and amend the Law for regulating the leasing of buildings, controlling the rent of buildings and preventing unreasonable eviction of tenants therefrom in the State of Kerala;

BE it enacted in the Tenth Year of the Republic of India as follows:—

1. *Short title, application, commencement and duration.*—(1) This Act may be called the Kerala Buildings (Lease and Rent Control) Act, 1959.

(2) It shall apply to all the areas in the State of Kerala to which the Madras Buildings (Lease and Rent Control) Act, 1949, or the Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950, applied immediately before the commencement of this Act.

(3) The Government may, by notification in the Gazette, apply all or any of the provisions of this Act, to any other area in the State with effect from such date as may be specified in the notification and may, by like notification, cancel or modify such notification or withdraw the application of all or any of the provisions of this Act, from any area to which this Act applies under sub-section (2):

Provided that no such notification shall be issued unless it is supported by a resolution passed by the local authority or authorities, if any, of the areas affected by the notification.

(4) It shall come into force at once and remain in force up to and inclusive of 31st March 1962.

(5) Upon the expiry of this Act, the provision of section 4 of the Interpretation and General Clauses Act, 1125 shall apply as if this Act had been repealed by an Act of the Kerala State Legislature.

2. *Definitions.*—In this Act, unless the context otherwise requires,..

(1) "building" means any building or hut or part of a building or hut, let or to be let separately for residential or non-residential purposes and includes—

(*a*) the garden, grounds, wells, tanks and structures, if any, appurtenant to such building, hut or part of such building or hut and let or to be let along with such building or hut,

(b) any furniture supplied by the landlord for use in such building or hut or part of a building or hut,

but does not include a room in a hotel or boarding house;

(2) "Accommodation Controller" means any person appointed to perform the functions of an Accommodation Controller under this Act;

(3) "landlord" includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the building were let to a tenant;

Explanation.—A tenant who sub-lets shall be deemed to be a landlord within the meaning of this Act in relation to the sub-tenant.

(4) "prescribed" means prescribed by rules made under this Act;

(5) "Rent Control Court" means the Court constituted under Section 3;

(6) "tenant" means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son or daughter, of a deceased tenant who had been living with the tenant in the building as a member of the tenant's family up to the death of the tenant and a person continuing in possession after the termination of the tenancy in his favour, but does not include a Kudikidappukaran as defined in the Kerala Stay of Eviction Proceedings Act 1957 (Act I of 1957) or a person placed in occupation of a building by its tenant or a person to whom the collection of rents or fees in a public market, cart-stand or slaughter-house or of rents for shops has been farmed out or leased by a local authority;

(7) "un-conscionable rent" means any rent which is double or more than double the maximum of the fair rent that could be fixed for a building under section 5.

3. *Constitution of Rent Control Courts and appointment of Accommodation Controllers.*—(1) The Government may, by notification in the Gazette, appoint a person who is qualified to be appointed as a Munsiff to be the Rent Control Court for such local areas as may be specified therein.

(2) The Government may, by notification in the Gazette, appoint any Officer not below the rank of a Revenue Divisional Officer to be the Accommodation Controller for any area to which this Act applies.

(3) The Accommodation Controller shall exercise his powers and perform his functions subject to such directions that the Government may issue from time to time, generally or in specific cases.

4. *Notice of vacancy.*—(1) (a) Every landlord shall, within fifteen days after the construction or reconstruction of a building intended to be let out or after a building becomes vacant by his ceasing to occupy it, or by the termination of a tenancy, or by release from requisition by the Government or any other competent authority, give notice of the availability or vacancy, in writing to the Accommodation Controller. Every tenant shall within fifteen days of his vacating a building occupied by him give notice of the same in writing to the Accommodation Controller:

Provided that this sub-section shall not apply to a building in respect of which the landlord has obtained an order for possession on any of the grounds specified in sub-section (3), clause (iv) of sub-section (4) and sub-sections (7) and (8) of Section 11.

(b) Every notice given under clause (a) shall contain such particulars as may be prescribed.

(2) If the tenant of a building puts another person in occupation thereof and does not re-occupy it within a period of three months, then, on the expiry of such period, the tenancy shall be deemed to have terminated and it shall be the duty of the tenant, and also of the landlord, if he is aware of such termination, to give notice thereof in writing to the Accommodation Controller within fifteen days of such termination:

Provided that where the tenant obtains written permission from the Accommodation Controller before the expiry of three months of his putting another person in occupation thereof to re-occupy the building within a period of six months, this sub-section shall have effect as if for the period of three months specified therein a period of six months were substituted.

Explanation.—This sub-section shall not apply where the building has been sub-let by a tenant entitled to do so, after giving due notice to the Accommodation Controller under sub-section (1) and in conformity with the provisions of this section.

(3) If, within fifteen days of the receipt by the Accommodation Controller of a notice under sub-section (1) or sub-section (2), the Government or the Accommodation Controller does not intimate to the landlord in writing that the building is required for the purposes of the State or Central Government or of any local authority or of any public institution or for the occupation of any officer of such Government, or local authority the landlord shall be at liberty to let the building to any tenant or to occupy it himself.

(4) The landlord shall not let the building to a tenant or occupy it himself, before the expiry of the period of fifteen days specified in sub-section (3) unless in the meantime he has received intimation that the building is not required for the purposes or for occupation by any of the officers specified in that sub-section.

(5) If the building is required for the purposes of the State or Central Government or a local authority or any public institution or for the occupation of any officer of such Government or local authority, the landlord shall deliver possession of the building to the Accommodation Controller and the Government, the local authority, public institution or the officer as the case may be shall be deemed to be the tenant of the landlord, with retrospective effect from the date on which the Accommodation Controller received notice under sub-section (1) or sub-section (2), from landlord, the terms of the tenancy being such as may be agreed upon between the landlord and the tenant and in default of an agreement, as may be determined by the Court of the Munsiff having jurisdiction over the area where the building is situated :

Provided that the rent payable shall only be the fair rent, if any, fixed or deemed to be fixed for the building under the provisions of this Act or where there has been no such fixation, such rent as may be fixed provisionally by the Accommodation Controller until such fair rent is fixed by the Court aforesaid in accordance with the provisions of this Act:

Provided further that a building used as a residential building, shall not be used as a non-residential building or vice versa unless the permission in writing of the Accommodation Controller is obtained under sub-section (1) of section 17 :

Provided also that no structural alterations shall be made in the building, unless the consent of the landlord is also obtained therefor.

(6) (a) Where a landlord has two or more residential buildings within the same local authority and they have not been let by him, the landlord may choose any one of such buildings for his own occupation and shall give notice to the Accommodation Controller specifying the building so chosen by him and every other building not so chosen.

(b) When giving notice as aforesaid, the landlord shall also specify therein—

(i) whether any building other than the one chosen by him under clause (a) has been continuously in the occupation of any member of his family or of any dependent of the landlord; or

(ii) whether he requires any such building for the occupation of any member of his family.

(c) In the case referred to in sub-clause (i) of clause (b), the Accommodation Controller may, if he is satisfied that the occupation of the building by any member of the family, or of any dependent of the landlord is *bona fide*, make an order permitting the landlord to allow such member or dependent to continue to occupy the building; and if the Accommodation Controller is not so satisfied, he shall make an order refusing such permission.

(d) In the case referred to in sub-clause (ii) of clause (b), the Accommodation Controller may, if he is satisfied that the building is required by any member of the family of the landlord bona fide for such occupation, make an order permitting the landlord to allow such member to occupy the building; and if the Accommodation Controller is not so satisfied, he shall make an order refusing such permission.

(e) Any landlord who is aggrieved by any order passed by the Accommodation Controller under clause (c) or clause (d) may, within fifteen days from the date of the receipt of such order, prefer an appeal in writing to the District Collector within whose jurisdiction the building in respect of which the order appealed against is situate and he shall pass such orders on the appeal as he may think fit.

(f) Every notice given by the landlord under clause (a) shall, in so far as it relates to any building other than the one chosen by him for his own occupation, be deemed to be a notice under sub-section (1):

Provided that in respect of any building referred to in clause (a), the provisions of sub-section (3) shall apply as if notice had been given by the landlord under sub-section (1) immediately after the lapse of a period of fifteen days from the date of receipt by the landlord of the order passed by the Accommodation Controller or, if an appeal has been preferred to the District Collector against that order within that period, as if notice bad been given as aforesaid by the landlord on the date of the order passed on the appeal.

(7) (a) Any officer empowered by the Government in this behalf may summarily dispossess—

(i) any landlord, tenant or other person occupying any building in contravention of the provisions of this section or any landlord who fails to deliver possession of any building in accordance with the direction of the Accommodation Controller.

(ii) any officer, local authority or public institution continuing to occupy, or failing to deliver possession of, any building in accordance with the direction of the Accommodation Controller, after the termination of his or its licence to occupy such building, and take possession of the building including any portion thereof which may have been sub-let:

Provided that in cases where any landlord has been refused permission for the occupation of a building under clause (c) or clause (d) of sub-section (6), not less than one week's notice shall be given before action is takeu under this sub-section.

(b) If free access to the building is not afforded to the officer empowered under clause (a), he may, after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

(c) Any landlord, tenant or other person or any officer, local authority or public institution, liable to be summarily dispossessed under clause (a), shall pay to the Government the expenses, if any, incurred by the Government in effecting such summary dispossession, as determined by them (which determination shall be final).

(8) Nothing contained in this section shall apply—

(a) to a building the monthly rent of which does not exceed fifteen rupees; or

(b) to any building or buildings owned by any company, association or firm, whether incorporated or not and bona fide intended solely for the occupation of its officers, servants or agents and situated in the same city, town or village.

5. *Determination of fair rent.*—(1) The Rent Control Court shall, on application of the tenant or landlord of a building, fix the fair rent for such building after holding such enquiry as it thinks fit.

(2) In fixing the fair rent the court shall take into consideration the property tax or house tax fixed for the building at the time of letting, in the property tax register or house tax register of the local authority within whose jurisdiction the building is situtated:

Provided that the fair rent fixed may in proper cases be lower than, but shall in no case exceed by more than 15 per cent, the monthly rent on the basis of which the property tax or house tax for the building has been fixed.

(3) If there is no property tax or house tax fixed for the building or if it is not based on a rental basis or if the building is situated in an area which is not within any local authority, the fair rent shall be fixed after taking into consideration the prevailing rates of rent in the locality for similar accommodation in similar circumstances during the twelve months preceding the letting.

(4) In case the allotment of the building is made by the Accommodation Controller, he may, provisionally fix the fair rent for the building and the Rent Control Court may, on application by an aggrieved party, modify the fair rent so fixed.

(5) The Rent Control Court shall intimate the fair rent of the building fixed to the local authority within whose jurisdiction the building, in respect of which the fair rent has been fixed, is situated. The local authority on receipt of such intimation shall make a record of the fair rent fixed in a register kept for the purpose and shall make the register available for inspection in such places and in such manner as may be prescribed. The register so prepared shall be kept up-to-date so as to contain full particulars in regard to the rent fixed in respect of a building by the Rent Control Court and also the subsequent variation thereto made by the said Court.

6. *Increase in fair rent in what cases admissible.*—(1) When the fair rent of a building has been fixed under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense at the request of the tenant if the building is then in the occupation of a tenant:

Provided that the fair rent as increased under this sub-section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such additional improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed:

Provided further that any dispute between the landlord and the tenant in regard to any increase claimed under this sub-section shall be decided by the Rent Control Court.

(2) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed, and any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Rent Control Court.

7. *Increase of rent in certain cases.*—(1) Where the amount of the taxes and cesses payable by the landlord in respect of any building to a local authority has increased after fixation of the fair rent such increase shall be recoverable by the landlord from the tenant.

(2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1) shall be decided by the Rent Control Court.

8. *Landlord not to claim or receive anything in excess of fair rent or agreed rent.*—(1) Where the Rent Control Court has determined the fair rent of a building—

(a) the landlord shall not claim, receive or stipulate for the payment of (i) any premium or other like sum in addition to such fair rent, or (ii) save as provided in section 6 or section 7 anything in excess of such fair rent:

Provided that the landlord may receive, or stipulate for the payment of an amount not exceeding two months' rent, by way of advance;

(b) save as provided in clause (a) any premium or other like sum or any rent paid in addition to, or in excess of such fair rent, whether before or after the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building after such commencement shall be refunded by the landlord to the person by whom it was paid or at the option of such person, shall be otherwise adjusted by the landlord:

Provided that where before the determination of the fair rent, rent has been paid in excess thereof, the refund or adjustment shall be limited to the amount paid in excess for a period of one year immediately before the institution of any proceedings for such determination.

(2) Where the fair rent of a building has not been so determined—

(a) the landlord shall not, claim, receive or stipulate for the payment of, any premium or other like sum in addition to the agreed rent :

Provided that the landlord may receive, or stipulate for the payment of, an amount not exceeding two months' rent, by way of advance ;

(b) save as provided in clause (a), any sum paid in excess of the agreed rent, in consideration of the grant, continuance or renewal of the tenancy of the building after such commencement, shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord.

(3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be null and void.

9. *Right of tenant paying rent or advance to receipt.*—(1) Every tenant who makes a payment on account of rent or advance shall be entitled to obtain a receipt in the prescribed form for the amount paid, duly signed by the landlord or his authorised agent.

(2) Where a landlord refuses to accept, or evades the receipt of, any rent lawfully payable to him by a tenant in respect of the building, the tenant may either,—

(i) remit to the landlord by money order after deducting the money order commission, the rent payable by him and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by written notice to the tenant his willingness to accept the rent ; or

(ii) require the landlord by notice in writing to specify within ten days from the date of receipt of the notice by him, a bank into which the rent may be deposited by the tenant to the credit of the landlord :

Provided that such bank shall be one situated in the city, town or village in which the building is situated or if there is no such bank in such city, town or village, within three miles of the limits thereof.

Explanation:— It shall be open to the landlord to specify from time to time by a written notice to the tenant and subject to the proviso aforesaid, a bank different from the one already specified by him under this sub-section.

(3) If the landlord specifies a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit in it any rent which may subsequently become due in respect of the building.

(4) If the landlord does not specify a bank as aforesaid, the tenant shall remit the rent to the landlord by money order, after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord specifies a bank in which the rent shall be deposited in accordance with the provisions of sub-section (2).

10. *Right of tenant to deposit rent in certain cases.*—(1) Where the address of the landlord or his authorised agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the building together with such fee as may be prescribed for the service of the notice referred to in sub-section (2) before such authority and in such manner as may be prescribed, and continue to deposit any rent which may subsequently become due in respect of the building, together with the fee prescribed, as aforesaid, before the same authority and in the same manner until the address of the landlord or his authorised agent becomes known to the tenant.

(2) When any deposit is made under sub-section (1) the Rent Control Court shall cause notice of the deposit to be served by affixture at the last known place of residence of the landlord and in such other manner as may be prescribed; and the amount deposited may, subject to such conditions as may be prescribed, be withdrawn by the landlord on application made by him to the Rent Control Court in that behalf.

(3) Where any *bona fide* doubt or dispute arises as to the person who is entitled to receive the rent for any building the tenant may deposit such rent before such authority and in such manner as may be prescribed and shall report to the Rent Control Court the circumstances under which such deposit was made by him, and may continue to deposit any rent which may subsequently become due in respect of the building before the same authority and in the same manner until the doubt is removed or the dispute is settled by the decision of a competent Court or by a settlement between the parties or until the Rent Control Court makes an order under sub-section (4), clause (b), as the case may be.

(4) (a) The Rent Control Court to whom a report is made under sub-section (3) shall, if satisfied that a *bona fide* doubt or dispute exists in the matter, direct that, pending removal of the doubt or settlement of the dispute as aforesaid the deposit be held by the authority concerned.

(b) If the Rent Control Court is not so satisfied, it shall forth with order payment of the amount deposited to the landlord.

(5) Where the Rent Control Court passes an order under sub-section (4), clause (a), any amount or amounts depositeo under sub-section (3) may be withdrawn only by the person who is declared by a competent court to be entitled thereto, cr

in case the doubt or dispute is removed by a settlement between the parties, only by the person who is held by the Rent Control Court to be entitled to the amount or amounts in accordance with such settlement.

11. *Eviction of tenants.*—(1) A tenant shall not be evicted whether in execution of a decree or otherwise except in accordance with the provisions of this section:

Provided that nothing contained in this section shall apply to a tenant whose landlord is the State Government or the Central Government or other public authority notified under this Act:

Provided further that where the tenant denies the title of the landlord or claims right of permanent tenancy, the Rent Control Court shall decide whether the denial or claim is *bona fide* and if it records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a Civil Court and such Court may pass a decree for eviction on any of the grounds mentioned in this section, notwithstanding that the Court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

(2) A landlord who seeks to evict his tenant shall apply to the Rent Control Court for a direction in that behalf—

(a) If the Rent Control Court, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied that the tenant has not paid or tendered the rent due by him in respect of the building within 15 days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable; it shall make an order directing the tenant to put the land lord in possession of the building and if it is not satisfied it shall make an order rejecting the application thereof by him:

Provided that the landlord has sent a registered notice to the tenant intimating the default and the tenant has failed to pay or tender the rent together with interest at 6% per annum and postal charges incurred in sending the notice, within 15 days of the notice to the tenant or of the refusal thereof by him.

(b) The order directing the tenant to put the landlord in possession of the building shall not be executed before the lapse of one month from the date of the order of the Rent Control Court and if the tenant deposits arrears of rent with interest and cost of proceedings within a month of such order or such other period as may be allowed by the Rent Control Court, it shall vacate that order.

(3) A landlord may apply to the Rent Control Court for an order directing the tenant to put the landlord in possession of the building if he *bona fide* needs the building for his own occupation or the occupation by any member of his family:

Provided that the Rent Control Court shall not give any such direction if the landlord has another building in his possession in the same City, Town or Village except where the Rent Control Court is satisfied that for special reasons, in any particular case it will be just and proper to do so, but it may give such direction only once:

Provided further that no landlord whose right to recover possession arises under an instrument of transfer *inter vivos* shall be entitled to apply to be put in possession until the expiry of one year from the date of the instrument:

Provided further that if a land-lord after obtaining an order to be put in possession transfers his rights in respect of the building to another person, the transferee shall not be entitled to be put in possession unless he proves that he *bona fide* needs the building for his own occupation or for the occupation by any member of his family.

(4) A landlord may apply to the Rent Control Court for an order directing the tenant to put the landlord in possession of the building,

(i) if the tenant has without the consent of the landlord transferred his right under the lease or sublet the entire building or any portion thereof if the lease does not confer on him any right to do so, or the landlord has not consented to such subletting, or

(ii) if the tenant uses the building in such a manner as to destroy or reduce its value or utility materially and permanently, or

(iii) if the tenant already has a building or subsequently acquires or puts up a building, of his own, reasonably sufficient for his requirements in the same city, town or village; or

(iv) if the building is in such a precarious condition that it requires reconstruction and if the landlord requires *bona fide* to reconstruct the same and if he satisfies the Court that he has the plan and license, if any required, and the ability to rebuild and if the proposal is not made as a pretext for eviction:

Provided that no landlord whose right to recover possession arises under an instrument of transfer *inter vivos* shall be entitled to apply to be put in possession for reconstruction until the expiry of one year from the date of the instrument:

Provided further that the land lord who evicts a tenant and does not reconstruct completely the building within a time which may be fixed or extended by the Rent Control Court, shall on a petition

before that Court be liable to a fine of rupees five hundred, if it is proved that he has neglected to reconstruct completely the building within such time:

Provided further that the Court shall have power at any time to issue directions regarding the reconstruction of the building and on failure of compliance by the landlord, to give effect to the order in any manner the Court deems fit and in appropriate cases to put the tenant back in possession:

Provided further that the tenant who was evicted shall have the first option to have the reconstructed building allotted to him with liability to pay its fair rent.

(5) A landlord who wants to renovate the building may apply to the Rent Control Court for an order directing the tenant to permit the landlord to enter and carry out the renovation within a time to be fixed by the Court and the Court may issue such orders as it deems fit and the tenant shall be bound to abide by the orders of the Court.

(6) A tenant whose building has been renovated under sub-section (5) shall be liable to pay enhanced rent so as to assure the landlord a rent equal to the rent for a similar building with similar amenities in the locality.

(7) Where the landlord of a building, is a religious, charitable, educational or other public institution, it may, if the building is needed for the purposes of the institution, apply to the Rent Control Court, for an order directing the tenant to put the institution in possession of the building.

(8) A landlord who is occupying only a part of a building, may, apply to the Rent Control Court for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional accommodation for his personal use.

(9) Where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply to the Rent Control Court before the expiry of such period.

(10) The Rent Control Court shall, if it is satisfied that the claim of the landlord under sub-section (3), (4), (7) or (8) is *bona fide*, make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Rent Control Court and if the Court is not so satisfied it shall make an order rejecting the application:

Provided that, in the case of an application under sub-section (8) the Rent Control Court shall reject the application if it is satisfied that the hardship which may be caused to the tenant by granting it will outweigh the advantage to the landlord:

Provided further that the Rent Control Court may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

(11) Notwithstanding anything contained in sub-sections (1) to (10) no order for eviction or for putting the landlord in possession shall be passed,

(i) against any tenant who is engaged in any employment or class of employment notified by the Government as an essential service for the purpose of this sub-section, unless the landlord is himself engaged in any employment or class of employment which has been so notified and the landlord requires the building for his own occupation; or

(ii) in respect of any building which has been let for use as an educational institution and is actually being used as such, provided that the institution has been recognised by the Government or any authority empowered by them in this behalf, so long as such recognition continues.

(12) Where a landlord who has obtained possession of a building in pursuance of an order under sub-section (3) does not himself occupy it within one month of the date of obtaining possession, or having so occupied it, vacates it without reasonable cause within six months of such date, the tenant who has been evicted may apply to the Rent Control Court for an order directing that he shall be restored to possession of the building and the Court shall make an order accordingly notwithstanding anything contained in section 4.

(13) Where a tenant who is entitled to apply for possession under sub-section (12) fails to do so within one month from the date on which the right to make the application accrued to him, the Government or the Officer referred to in sub-section (1) of Section 4, shall have power, if the building is required for any of the purposes, or for occupation by any of the officers specified in sub-section (3) of that section to give intimation to the landlord that the building is so required, and thereupon the provisions of sub-sections (5) and (8) of Section 4 shall apply to the building:

Provided that this sub-section shall not apply to a building the monthly rent of which does not exceed fifteen rupees.

(14) Where the Rent Control Court is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Rent Control Court may direct that compensation not exceeding fifty rupees be paid by such landlord to the tenant.

(15) Where an application under sub-sections (2), (3), (4), (5), (7) or (8) for evicting a tenant has been rejected by the Rent Control Court, the tenancy shall, subject to the provisions of this Act, be deemed to continue on the same

terms and conditions as before and shall not be terminable by the landlord except on one or more of the grounds mentioned in the above said sub-sections.

(16) Notwithstanding anything contained in this section, no person who is receiving or is entitled to receive the rent of a building merely as an agent of the landlord shall, except with the previous written consent of the landlord, be entitled to apply for the eviction of a tenant.

(17) Notwithstanding anything contained in this section, a tenant who has been in continuous occupation of a building for a period of ten years either as a tenant or otherwise, shall not be liable to be evicted for bona fide occupation of the landlord or of the occupation by any member of his family or for the purpose of reconstruction; provided that a landlord of a residential building shall be entitled to evict such a tenant of that building if the landlord has been living in a place outside the city, town or village in which the building is situated for a period of not less than five years immediately before he makes an application to the Rent Control Court for being put in possession of the building and requires the building, bona fide for his own permanent residence or of the permanent residence of any member of his family.

12. *Payment or deposit of rent during the pendency of proceedings for eviction.*—(1) No tenant against whom an application for eviction has been made by a landlord under section 11, shall be entitled to contest the application before the Rent Control Court under that section, or to prefer any appeal under section 18 against any order made by the Rent Control Court on the application, unless he has paid or pays to the landlord, or deposits with the Rent Control Court or the appellate authority, as the case may be, all arrears of rent admitted by the tenant to be due in respect of the building up to the date of payment or deposit, and continues to pay or to deposit any rent which may subsequently become due in respect of the building, until the termination of the proceedings before the Rent Control Court or the appellate authority, as the case may be.

(2) The deposit of rent under sub-section (1) shall be made within the time and in the manner prescribed and shall be accompanied by the fee prescribed for the service of the notice referred to in sub-section (4).

(3) If any tenant fails to pay or to deposit the rent as aforesaid, the Rent Control Court or the appellate authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the landlord in possession of the building.

(4) When any deposit is made under sub-section (1), the Rent Control Court or the appellate authority, as the case may be, shall cause notice of the deposit to be served on the landlord in the prescribed manner, and the amount deposited

may, subject to such conditions as may be prescribed, be withdrawn by the landlord on application made by him to the Rent Control Court or the appellate authority in that behalf.

13. *Landlord not to interfere with amenities enjoyed by the tenant.*—(1) No landlord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Rent Control Court complaining of such contravention.

(3) If the tenant satisfies the Rent Control Court that the amenities were cut off or withheld with a view to compel him to vacate the building or to pay an enhanced rent, the Rent Control Court may pass an interim order, directing the landlord to restore the amenities immediately, pending the enquiry referred to in sub-section (4).

Explanation.—An interim order may be passed under this sub-section without giving notice to the land-lord. Any interim order so passed may be modified or cancelled by final order and the Court may give effect to such modification or cancellation.

(4) If the Rent Control Court on inquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, it shall make an order directing the landlord to restore such amenities and for the purpose of enforcement of such orders, the Rent Control Court may exercise all the powers of a civil court in executing a decree for injunction or for specific performance.

(5) The Rent Control Court may in its discretion direct that compensation not exceeding fifty rupees—

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the landlord, if the landlord had cut off or withheld the amenities frivolously or vexatiously.

14. *Execution of orders.*—Every order made under section 11 or section 13 or section 19 and every order passed on appeal under section 18 or on revision under section 20 shall after the expiry of the time allowed therein be executed by the Munsiff or if there are more than one Munsiff, by the Principal Munsiff having original jurisdiction over the area in which the building is situated:

Provided that an order passed in execution under this section shall not be subject to an appeal but shall be subject to revision by the Court to which appeals ordinarily lie against the decisions of the said Munsiff.

15. *Decisions which have become final not to be re-opened.*—The Rent Control Court shall summarily reject any application under sub-section (2), (3), (4), (5), (7) or (8) of section 11 which raises between the same parties or between parties

under whom they or any of them claim substantially the same issues as have been finally decided or as purport to have been finally decided in a former proceeding under this Act or under the corresponding provisions of any law in force prior to the commencement of this Act or the corresponding provisions of any law repealed or superseded by such law.

16. *Orders of Rent Control Court to be pronounced in open Court.*—Every order passed by a Rent Control Court under this Act shall be pronounced in open Court on the day on which the case is finally heard, or on some future day of which due notice shall be given to the parties.

17. *Conversion of buildings and failure by landlord to make necessary repairs.*—(1) No residential building shall be converted into a non-residential building or vice versa and no such building shall be divided into separate portions for letting on rent or for other purposes except with the permission in writing of the Accommodation Controller:

Provided that where such conversion involves structural alteration of the building, the consent of the landlord shall also be necessary.

(2) Notwithstanding any law, custom, usage or contract to the contrary, the landlord shall be bound to attend to the periodical maintenance and necessary repairs of the building. If a landlord fails to attend to such maintenance or repairs to the building within a reasonable time after notice is given by the tenant, it shall be competent for the Accommodation Controller to direct on application by the tenant that such maintenance and repairs may be attended to by the tenant and that the charges and cost thereof may be deducted with interest from the rent which is payable by him.

18. *Appeal.*—(1) (a) The Government may, by general or special order notified in the Gazette, confer on such officers and authorities not below the rank of a Subordinate Judge the powers of appellate authorities for the purposes of this Act in such areas or in such classes of cases as may be specified in the order.

(b) Any person aggrieved by an order passed by the Rent Control Court may, within fifteen days from the date of such order, prefer an appeal in writing to the appellate authority having jurisdiction.

In computing the fifteen days aforesaid, the time taken to obtain a certified copy of the order appealed against shall be excluded.

(2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall send for the records of the case from the Rent Control Court and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as it thinks fit either directly or through the Rent Control Court, shall decide the appeal.

Explanation:—The appellate authority may, while confirming the order of eviction passed by the Rent Control Court, grant an extension of time to the tenant for putting the landlord in possession of the building.

(4) The appellate authority shall have all the powers of the Rent Control Court including the fixing of arrears of rent.

(5) The decision of the appellate authority, and subject to such decision, an order of the Rent Control Court shall be final and shall not be liable to be called in question in any Court of law, except as provided in section 20.

19. *Costs.*—Subject to such conditions and limitations, if any as may be prescribed, the costs of and incident to all proceedings before the Rent Control Court or the appellate authority referred to in section 18 shall be in the discretion of the Rent Control Court or the appellate authority which shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

Explanation:—The appellate authority may set aside or vary any order passed by the Rent Control Court in regard to the costs of and incident to the proceedings before it.

20. *Revision.*—(1) In cases where the appellate authority empowered under section 18 is a subordinate judge the District Court and in other cases the High Court, may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceedings taken under this Act by such authority for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference thereto as it thinks fit.

(2) The costs of and incident to all proceedings before the High Court or District Court under sub-section (1) shall be in its discretion.

21. *Order under the Act to be binding on sub-tenants.*—Any order for the eviction of a tenant passed under this Act shall be binding on all sub-tenants under such tenant, whether they were parties to the proceeding or not, provided that such order was not obtained by fraud or collusion. In cases where sub-letting is allowed under the original agreement of tenancy the sub-tenant should be made a party to the proceedings, if he had given notice of the sub-tenancy to the landlord.

22. *Proceedings by or against legal representatives.* — The provisions of section 146 and Order XXII of the Code of Civil Procedure, 1908 (5 of 1908) shall, as far as possible, be applicable to the proceedings under this Act.

23. *Summons etc.*—Subject to such conditions and limitations as may be prescribed, the Accommodation Controller, the Rent Control Court and the appellate authority shall have the powers

which are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters: —

(a) discovery and inspection ;
(b) enforcing the attendance of witnesses, and requiring the deposits of their expenses ;
(c) compelling the production of documents ;
(d) examining witnesses on oath ;
(e) granting adjournments ;
(f) reception of evidence taken on affidavit;
(g) issuing commission for the examination of witnesses and for local inspection;
(h) setting aside *ex parte* orders ;
(i) enlargement of time originally fixed or granted ;
(j) power to amend any defect or error in orders or proceedings ; and
(k) power to review its own order.

The Accommodation Controller, the Rent Control Court or the Appellate Authority may summon and examine *suo motu* any person whose evidence appears to it to be material ; and it shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898).

24. *Time within which proceedings have to be disposed of.*— The Rent Control Court shall, as far as may be practicable, pass final orders in any proceeding before it within three months from the date of appearance of the parties thereto.

25. *Exemptions.*— (1) Notwithstanding anything contained in this Act the Government may, by notification in the Gazette exempt any building or class of buildings from all or any of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, the Government may, by notification in the Gazette, exempt from the provisions of Sections 4, 5, 6, 7 and 8, buildings the construction of which has begun after the commencement of this Act, and in respect of which,—

(a) the assessment to property tax or house tax by a local authority is based on a monthly rental of fifty rupees or more; or

(b) there has been no such assessment to property tax or house tax by a local authority and the monthly rent will be fifty rupees or more having regard to prevailing rates of rent in the locality for similar accommodation in similar circumstances and the Accommodation Controller certifies that rent of the building will be fifty rupees or more.

Explanation:—For the purposes of this sub-section, construction shall not include reconstruction or renovation.

26. *Executive authorities of local bodies to furnish certified extacts from property tax and house-tax assessment book.*—The executive authority of the local authority shall, on application

made in this behalf and on payment of such fee as may, from time to time, be fixed by the Government by notification in the Gazette, grant to the applicant a certified copy of the extract from the property tax or house tax assessment book of the local authority, showing the rental value of the building or buildings in respect of which application has been made, relating to the period specified in the application. Such certified copy shall be received as evidence of the facts stated therein, in proceedings under this Act.

27. *Landlord and tenant to furnish particulars.*—Every landlord and every tenant of a building shall be bound to furnish to the Accommodation Controller, the Rent Control Court or any person authorised by it in that behalf, such particulars in respect of the building as may be prescribed by rules made under this Act.

28. *Inspectors.*—(1) The Government may, by notification in the Gazette, appoint such officers of the Police Department not below the rank of a Sub Inspector including officers of the Anti-corruption Department to be Inspectors for the purpose of enforcing the provisions of this Act and may assign to them such local limits as they may think fit.

(2) An Inspector may enter any premises with such assistants as he thinks necessary for the purpose of interrogating any person or for obtaining any document for the purpose of any investigation or enquiry under this Act.

29. *Penalties.*—(1) If any person contravenes any of the provisions of sub-sections (1), (2), (4), (5) and (6) of section 4, sub-sections (1) (a) and (2) (a) of section 8, sub-section (1) of section 13, sub-section (1) of section 17 and section 27, he shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees or with both.

(2) If any landlord receives unconscionable rent in respect of any building he shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees or with both.

30. *Fixation of fair rent suo motu by court.*—(1) If during the course of prosecution, it is disclosed that a landlord was receiving a rent in excess of the rent that may be fixed under section 5 the Court before which the complaint was filed shall, after the close of the proceedings before it, forward to the Rent Control Court the relevant extracts of the proceedings for the purpose of fixing the fair rent.

(2) The Rent Control Court, on receipt of such extracts of proceedings, shall issue notice to the concerned landlord and tenant and after giving them an opportunity of being heard fix the fair rent of the building and the fair rent so fixed shall be deemed to be the fair rent as determined under section 5.

31. *Application of the Limitation Act.*— The provisions of section 5 of the Indian Limitation Act, 1908 (9 of 1908) shall apply to all proceedings under this Act.

32. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the procedure to be followed by Rent Control Courts, Accommodation Controllers and appellate authorities in the performance of their functions under this Act;

(c) the manner in which notices and orders under this Act shall be given or served;

(d) setting aside *ex parte* orders passed under this Act;

(e) applications for making legal representatives of deceased persons, parties to proceedings under this Act and the time within which such applications shall be preferred;

(f) the order of priority in which buildings have to be allotted among the applicants.

(3) In making rules under this section, the Government may provide that a person who contravenes any of the provisions thereof shall be punishable with fine which may extend to two thousand rupees.

(4) All rules made under this section shall be published in the Gazette.

(5) All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications whether by way of repeal or amendment as the Legislative Assembly may make during the Session in which they are so laid or the Session immediately following.

33. *Continuance in force of existing proceedings, orders, etc.*—(1) All proceedings commenced or deemed to have been commenced and all actions taken or deemed to have been taken under the Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950, or the Madras Buildings (Lease and Rent Control) Act, 1949, and pending at the commencement of this Act shall, so far as may be, deemed to have been commenced or taken under the corresponding provisions of this Act and be continued subject to the provisions of this Act.

(2) All orders passed or deemed or purporting to have been passed and all decisions given or deemed or purporting to have been given under the Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950 or the Madras Buildings (Lease and Rent Control) Act, 1949, and in which fair rent has been fixed, shall continue in force until they are superseded or modified under this Act by the authority competent to do so.

34. *Certain orders of eviction to be voidable.*—(1) Notwithstanding anything contained in any other law, any order of eviction passed, between 12th February, 1958, and the date of coming into force of the Kerala Buildings (Lease and Rent Control) Ordinance, 1959 (Ordinance No. 3 of 1959) on grounds which would not have been available if the said Ordinance were in force during the said period, shall be voidable at the option of the tenant.

(2) If any tenant has actually been evicted in pursuance of an order referred to in sub-section (1), the Accommodation Controller shall, on a petition presented to him for the purpose within three months from the coming into force of the said Ordinance restore the tenant to the possession of that building.

(3) If the landlord has put any person in possession of the building as a tenant and the person entitled to rescission of the order puts in a petition before the Accommodation Controller within three months from the coming into force of the said Ordinance, the Accommodation Controller shall evict such tenant after giving him notice of eviction and after allowing him reasonable time to vacate the building.

35. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceedings shall lie against any person, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, order or direction made or issued thereunder.

(2) No suit or other legal proceeding shall lie against the Government, any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act any rule, order, or direction made or issued thereunder.

36. *Repeal.*—(1) The Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950, and the Madras Buildings (Lease and Rent Control) Act, 1949, as in force in the Malabar District referred to in sub-section (2) of Section 5 of the States Reorganisation Act, 1956, Section 13 of the Travancore-Cochin Public Safety Measures Act, 1950 and the Kerala Buildings (Lease and Rent Control) Ordinance, 1959 (Ordinance No. 3 of 1959) are hereby repealed.

(2) Notwithstanding the repeal of the said Ordinance, anything done or action taken in exercise of the powers conferred by or under said Ordinance shall be deemed to have been done or taken in excercise of the powers by or under this Act, as if this Act were in force on the day on which such thing was done or action taken.

STATEMENT OF OBJECTS AND REASONS.

The leasing of buildings and fixing of rent payable in respect thereof were being regulated by the Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950 in the Travancore-Cochin portion of the State and by the Madras Buildings (Lease

and Rent Control) Act, 1949 in the areas transferred from Madras State. A Bill to unify the laws in the two portions of the State was introduced in the Assembly. The unified Bill conferred certain additional rights on the tenants and has necessarily cast further liabilities on the land lords. As soon as the Bill was published some of the land lords had begun to evict tenants on grounds which would not have been available to them if the Bill was passed.

There were very many instances of such eviction and it was deemed necessary to give protection to those tenants from the date of publication of the Bill. The Kerala buildings (Lease and Rent Control) Ordinance, 1959 was promulgated to achieve that object. The present Bill is intended to replace that Ordinance by an Act of Legislature.

V. R. KRISHNA IYER.